



## Senate

General Assembly

January Session, 2001

**File No. 546**

Senate Bill No. 89

*Senate, May 2, 2001*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

### **AN ACT CONCERNING THE DNA DATA BANK OF CONVICTED OFFENDERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-102g of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) For the purposes of this section, "criminal offense" means a  
4 criminal offense against a victim who is a minor, a nonviolent sexual  
5 offense or a sexually violent offense, as those terms are defined in  
6 section 54-250, a felony found by the sentencing court to have been  
7 committed for a sexual purpose as provided in section 54-254, or a  
8 violation of section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a,  
9 53a-56, 53a-56a, 53a-56b, 53a-59, 53a-59a, 53a-59b, 53a-60, 53a-60a, 53a-  
10 60b, 53a-60c, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-101, 53a-102a,  
11 53a-103a, 53a-111, 53a-112, 53a-134, 53a-135, 53a-136, 53a-167c, 53a-  
12 179b, 53a-179c or 53a-181c.

13        [(a)] (b) Any person who [is] has been convicted of a criminal  
14 offense [against a victim who is a minor, a nonviolent sexual offense or  
15 a sexually violent offense, as those terms are defined in section 54-250,  
16 or of a felony found by the sentencing court to have been committed  
17 for a sexual purpose as provided in section 54-254,] and who is  
18 [sentenced to] in the custody of the Commissioner of Correction shall,  
19 at any time prior to release from custody, have a [sample of such  
20 person's] blood or other biological sample withdrawn or taken for  
21 DNA (deoxyribonucleic acid) analysis to determine identification  
22 characteristics specific to the person.

23        [(b)] (c) Any person who is convicted of a criminal offense [against a  
24 victim who is a minor, a nonviolent sexual offense or a sexually violent  
25 offense, as those terms are defined in section 54-250, or of a felony  
26 found by the sentencing court to have been committed for a sexual  
27 purpose, as provided in section 54-254,] and who is not sentenced to a  
28 term of confinement shall, as a condition of such sentence, have a  
29 [sample of such person's] blood or other biological sample withdrawn  
30 or taken for DNA (deoxyribonucleic acid) analysis to determine  
31 identification characteristics specific to the person.

32        [(c)] (d) Any person who is found not guilty by reason of mental  
33 disease or defect pursuant to section 53a-13 of a criminal offense  
34 [against a victim who is a minor, a nonviolent sexual offense or a  
35 sexually violent offense, as those terms are defined in section 54-250, or  
36 of a felony found by the sentencing court to have been committed for a  
37 sexual purpose, as provided in section 54-254,] shall, at any time prior  
38 to discharge from custody in accordance with subsection (e) of section  
39 17a-582, section 17a-588 or subsection (g) of section 17a-593, have a  
40 [sample of such person's] blood or other biological sample withdrawn  
41 or taken for DNA (deoxyribonucleic acid) analysis to determine  
42 identification characteristics specific to the person.

43        [(d)] (e) The analysis shall be performed by the Division of Scientific

44 Services within the Department of Public Safety. The identification  
45 characteristics of the profile resulting from the DNA analysis shall be  
46 stored and maintained by the division in a DNA data bank and shall  
47 be made available only as provided in section 54-102j, as amended by  
48 this act.

49 Sec. 2. Section 54-102h of the general statutes is repealed and the  
50 following is substituted in lieu thereof:

51 (a) Each blood or other biological sample required pursuant to  
52 section 54-102g, as amended by this act, from persons who are to be  
53 incarcerated shall be withdrawn or taken at the receiving unit or at  
54 such other place as is designated by the Department of Correction. The  
55 required samples from persons who are not sentenced to a term of  
56 confinement shall be withdrawn or taken at a time and place specified  
57 by the sentencing court. Only a person licensed to practice medicine  
58 and surgery in this state, a qualified laboratory technician, a registered  
59 nurse or a phlebotomist shall withdraw or take any sample to be  
60 submitted to analysis. No civil liability shall attach to any person  
61 authorized to withdraw [blood] or take a blood or other biological  
62 sample as provided in this section as a result of the act of withdrawing  
63 [blood] or taking such sample from any person submitting thereto, if  
64 the blood or other biological sample was withdrawn or taken  
65 according to recognized medical procedures, provided no person shall  
66 be relieved from liability for negligence in the withdrawing or taking  
67 of any [blood] such sample.

68 (b) Chemically clean sterile disposable needles and vacuum draw  
69 tubes shall be used for all blood samples. The tube or container for a  
70 blood or other biological sample shall be sealed and labeled with the  
71 subject's name, Social Security number, date of birth, race and gender,  
72 the name of the person collecting the sample, and the date and place of  
73 collection. The [tubes] tube or container shall be secured to prevent  
74 tampering with the contents.

75 (c) The steps set forth in this section relating to the taking, handling,  
76 identification and disposition of blood or other biological samples are  
77 procedural and not substantive. Substantial compliance therewith shall  
78 be deemed to be sufficient. The samples shall be transported to the  
79 Division of Scientific Services within the Department of Public Safety  
80 not more than fifteen days following withdrawal or taking and shall be  
81 analyzed and stored in the DNA data bank in accordance with sections  
82 54-102i and 54-102j, as amended by this act.

83 Sec. 3. Section 54-102i of the general statutes is repealed and the  
84 following is substituted in lieu thereof:

85 (a) Whether or not the results of an analysis are to be included in the  
86 data bank, the Division of Scientific Services within the Department of  
87 Public Safety shall conduct the DNA analysis in accordance with  
88 procedures adopted by the division to determine identification  
89 characteristics specific to the individual whose blood or other  
90 biological sample is being analyzed. Such procedures shall conform to  
91 nationally recognized and accepted standards for DNA analysis. The  
92 Commissioner of Public Safety or the commissioner's designee shall  
93 complete and maintain on file a form indicating the name of the person  
94 whose sample is to be analyzed, the date and by whom the [blood]  
95 sample was received and examined, and a statement that the seal on  
96 the tube or container had not been broken or otherwise tampered with.  
97 The remainder of a [blood] sample submitted for analysis and  
98 inclusion in the data bank pursuant to section 54-102g, as amended by  
99 this act, may be divided, labeled as provided for the original sample,  
100 and securely stored by the division in accordance with specific  
101 procedures set forth in regulations adopted by the Department of  
102 Public Safety in accordance with the provisions of chapter 54 to ensure  
103 the integrity and confidentiality of the samples. All or part of the  
104 remainder of that sample may be used only (1) to create a statistical  
105 data base provided no identifying information on the individual  
106 whose sample is being analyzed is included, or (2) for retesting by the

107 division to validate or update the original analysis.

108 (b) The division shall initiate a DNA testing process not later than  
109 forty-five days after the receipt of a blood or other biological sample  
110 that has been submitted for analysis. A report of the results of a DNA  
111 analysis conducted by the division as authorized, including the profile  
112 and identifying information, shall be made and maintained at the  
113 division. A certificate and the results of the analysis shall be admissible  
114 in any court as evidence of the facts therein stated. Except as  
115 specifically provided in this section and section 54-102j, as amended by  
116 this act, the results of the analysis shall be securely stored and shall  
117 remain confidential.

118 Sec. 4. Section 54-102j of the general statutes is repealed and the  
119 following is substituted in lieu thereof:

120 (a) It shall be the duty of the Division of Scientific Services within  
121 the Department of Public Safety to receive blood or other biological  
122 samples and to analyze, classify and file the results of DNA  
123 identification characteristics profiles of blood or other biological  
124 samples submitted pursuant to section 54-102g, as amended by this  
125 act, and to make such information available as provided in this section.  
126 The results of an analysis and comparison of the identification  
127 characteristics from two or more blood or other biological samples  
128 shall be made available directly to federal, state and local law  
129 enforcement officers upon request made in furtherance of an official  
130 investigation of any criminal offense. A request may be made by  
131 personal contact, mail or electronic means. The name of the person  
132 making the request and the purpose for which the information is  
133 requested shall be maintained on file with the division.

134 (b) Upon the request of any person identified and charged with an  
135 offense as the result of a search of information in the data bank, a copy  
136 of the request for a search shall be furnished to such person so  
137 identified and charged. Only when a sample or DNA profile supplied

138 by the person making the request satisfactorily matches a profile in the  
139 data bank shall the existence of data in the data bank be confirmed or  
140 identifying information from the data bank be disseminated.

141 (c) The Department of Public Safety shall adopt regulations in  
142 accordance with the provisions of chapter 54 governing (1) the  
143 methods of obtaining information from the data bank in accordance  
144 with this section and (2) procedures for verification of the identity and  
145 authority of the person making the request. The department shall  
146 specify the positions in that agency which require regular access to the  
147 data bank and samples submitted as a necessary function of the job.

148 (d) The Division of Scientific Services shall create a separate  
149 statistical data base comprised of DNA profiles of blood or other  
150 biological samples of persons whose identity is unknown. Nothing in  
151 this section or section 54-102k shall prohibit the Division of Scientific  
152 Services from sharing or otherwise disseminating the information in  
153 the statistical data base with law enforcement or criminal justice  
154 agencies within or without the state.

155 (e) The Division of Scientific Services may charge a reasonable fee to  
156 search and provide a comparative analysis of DNA profiles in the data  
157 bank to any authorized law enforcement agency outside of the state.

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

**State Impact:** Significant Cost

**Affected Agencies:** Department of Public Safety (Division of Scientific Services) and Department of Correction

**Municipal Impact:** None

### **Explanation**

**State Impact:**

	FY 02	FY 03
STATE COST	\$432,500	\$120,500

This bill results in additional costs to the state estimated at \$432,500 in FY 02 and at \$120,500 in subsequent fiscal years. It requires DNA (deoxyribonucleic acid) samples to be obtained from all persons convicted of a violent felony and allows other biological samples besides blood to be taken for DNA analysis. Violent felonies include murder and various degrees of manslaughter, assault, kidnapping, unlawful restraint, burglary, robbery, rioting and stalking. Currently, blood samples are used for DNA analysis and are taken by the Department of Correction (DOC) and then sent to the Department of Public Safety (DPS) Division of Scientific Services for analysis and

entry into the data bank. This costs a total of about \$55.50 per person, \$5.50 for DOC to take the sample and sent it to DPS, and \$50 to analyze the sample and enter the results into the data bank.

There are about 4,700 Connecticut inmates incarcerated for these violent felonies. See table below. In addition, at least 1,000 persons are convicted of these violent offenses each year. The cost for the actual tests and processing would be \$302,500 in FY 02 and \$55,500 in subsequent years.

Due to the significant increase in the number of samples requiring processing in the first year, DPS would also require four additional positions, two Criminalists at \$40,000 each and two Lab Technicians at \$25,000 each, for total personnel costs of \$130,000 in FY 02. In subsequent years DPS would require two of these positions, one Criminalist and one Lab Technician at an annual cost of \$65,000.

#### INMATES INCARCERATED FOR VIOLENT OFFENSES

OFFENSE	NUMBER
Murder	1,450
Manslaughter	405
Assault	548
Kidnapping	158
Unlawful Restraint	50
Burglary	112
Arson	83
Robbery	1,433
Assault on Police	178
Rioting	3
Stalking	9
<b>TOTAL</b>	<b>4,678</b>



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**OLR Bill Analysis**

SB 89

***AN ACT CONCERNING THE DNA DATA BANK OF CONVICTED OFFENDERS.*****SUMMARY:**

This bill mandates DNA testing of perpetrators of 33 violent felonies and inclusion of their genetic profiles in the Department of Public Safety's Division of Scientific Services (its forensic laboratory) databank. Currently, people convicted, or acquitted because of insanity, of crimes requiring sex offender registration (specified crimes against minors, non-violent sexual offenses, crimes committed for a sexual purpose, and sexually violent offenses) must submit blood samples to the division for analysis and inclusion in its DNA database.

The bill applies to people convicted of these additional crimes (or acquitted because of insanity) who, on or after October 1, 2001, are: (1) in the correction commissioner's custody; (2) sentenced to a term that does not include confinement, conditioned upon their submitting to testing; or (3) in the case of insanity acquittees, in the custody of the Psychiatric Security Review Board, mental retardation commissioner, or a psychiatric hospital superintendent.

The bill also permits other types of biological samples (such as saliva swabs) to be taken instead of blood from any person who must be tested. It extends to the newly covered group and non-blood samples existing laws specifying (1) sample collection, handling, labeling, and storage requirements; (2) disclosure rules; and (3) penalties for improper use or disclosure of DNA information.

EFFECTIVE DATE: October 1, 2001

**VIOLENT FELONIES**

In addition to the sex offenders currently covered, the bill requires

DNA sample submissions from people convicted, or acquitted because of insanity, of:

1. murder (all forms);
2. first- and second-degree manslaughter (all forms);
3. first- and second-degree assault (all forms);
4. first- and second-degree kidnapping (all forms);
5. first-degree unlawful restraint;
6. first-degree burglary;
7. second- and third-degree burglary (if a firearm was used);
8. first- and second-degree arson;
9. first-, second-, and third-degree robbery;
10. assault on a peace officer or other specified person;
11. rioting, or inciting a riot, at a correctional institution; and
12. first-degree stalking.

## **BACKGROUND**

### ***Sample Collection***

By law, for incarcerated individuals, blood samples are taken at the Department of Correction receiving unit or some other place designated by the commissioner, and, for people not sentenced to incarceration, at a place designated by the court. Licensed physicians, qualified lab technicians, registered nurses, or phlebotomists must take samples. As long as they follow recognized medical procedures and are not negligent, they are immune from liability in a civil lawsuit. Samples must be placed in sealed and labeled containers, secured against tampering, and delivered to the laboratory for analysis and

storage.

### ***DNA Data Bank***

The laboratory must begin testing samples within 45 days of receiving them. When its analysis is complete, it records identifying characteristics of the person's DNA profile in its data bank. It also keeps secure, confidential records on how it handled the sample and a report of its analysis. It may keep a portion of the sample after testing, but may use it only to create a statistical database with no individually identifiable information or for retesting to confirm the original results.

By law, it must make analysis results and data bank matches available to federal, state, and local law enforcement officers who provide a sample and ask for a data bank search. The laboratory must verify their identity and confirm that the request is made as part of an official criminal investigation. It cannot disclose the existence of data in its bank or identifying information unless the requestor's sample matches a profile in the bank. Anyone identified and charged with an offense as a result of a data bank search must get a copy of the law enforcement agency's search request if he asks for it.

DNA data bank profiles can be expunged when a person's case is subsequently dismissed or his conviction reversed. For this to happen, he must make a written request and provide a certified copy of the court order reversing or dismissing the case. The lab must then purge its records and destroy its samples.

### ***Penalties***

It is a class D felony, punishable by one to five years imprisonment, a fine of up to \$5,000, or both, for someone without legal authority to obtain, or try to obtain, a DNA sample from the lab for the purpose of having a DNA analysis performed.

It is a class A misdemeanor, punishable by up to one year's imprisonment, a fine of up to \$2,000, or both, to knowingly disseminate, receive, or use DNA data bank information for a purpose other than as authorized by law.

It is a class C misdemeanor, punishable by up to three months imprisonment, a fine of up to \$500, or both, to disseminate DNA data bank information without authority.

***Separate Data Bank***

The division also maintains a separate data bank comprised of DNA profiles of persons whose identity is unknown. It can freely share this information with law enforcement agencies.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report

Yea 35      Nay 0